IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 17TH NOVEMBER 2006 / 26TH KARTHIKA 1928

WP(C).No. 30366 of 2006(M)

PETITIONER:

THE MUTTOM CO-OPERATIVE BANK LTD.
NO.1165, CHERTHALA REPRESENTED BY ITS
SECRETARY.

BY ADV. SRI.J.OM PRAKASH
SRI.JOJI K.ANTONY

RESPONDENTS:

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1. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), CHERTHALA.

2. THE SENIOR INSPECTOR OF CO-OPERATIVE SOCIETIES, HIGHER GRADE, KUTHIATHODE UNIT, ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES OFFICE, CHERTHALA P.O.

3. N.M.SHERIFF, PUTHUVAL NIKARTHIL, CHERTHALA VADAKKUM MURI, CHERTHALA P.O.

4. ASIYA BEEVI, DO. DO.

BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH. (R1 & R2)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

W.P.(C) No. 30366 of 2006

Dated this the 17th November, 2006.

J U D G M E N T

The writ petitioner, the Muttom Co-operative Bank Ltd. No.1165, Cherthala, represented by its Secretary, has filed this writ petition praying that Ext.P9, a letter dated 10.10.2006, from the office of the Assistant Registrar of Co-operative Societies (General), Cherthala, be quashed, as the direction contained therein is against the principles of natural justice, and against the spirit of dispensing justice to the party, who approached the Arbitrator under Section 69 of the Kerala Co-operative Societies Act, 1969, in short 'the Act'. Further prayer is to direct the first respondent to dispose of Exts.P7 and P8, representations of the petitioner bank, and to correct the extent of the area as 25 cents, in Exts.P5 and P6 awards passed by the first respondent, instead of 10 cents now wrongly written.

2. It is submitted that the petitioner had approached the first respondent, through Exts.P1 and P2 suits, for realisation of the amounts due from respondents 3 and 4, the husband and wife, who defaulted the re-payment of the loan, availed from the petitioner

bank. The award in each case, Exts.P5 and P6, had been passed by the first respondent. In Exts.P1 and P2, the extent of the property mentioned is 25 cents (10.12 Ares), and the building therein, comprised in Survey No. 51/1/164 of Vayalar Kizhakku Village of Cherthala Taluk. The husband and wife availed separate loans by pledging the entire 10.12 Ares of property. Both of them defaulted, and, therefore, two separate proceedings were initiated. In Exts.P5 and P6 awards of the first respondent, under the description of the properties, the extent of the property is wrongly written as 10 cents, instead of 25 cents. That necessitated the writ petitioner to file Exts.P7 and P8 representations before the first respondent, praying to correct the extent of the centage as 25 cents, instead of 10 cents. But it was turned down under Ext.P9, directing the petitioner to prefer a revision before the appellate authority, as the first respondent has got no power to review or correct his awards .

3. Rule 67 of the Kerala Co-operative Society Rules, 1969, in short 'the Rules', is dealing with the Reference of disputes, payment of expenses and decisions on disputes. It is true that no

where, it is stated, regarding the correction of awards, even a clerical error, as in this case. It was in such a situation that the first respondent directed the petitioner to prefer a revision.

4. This Court had number of occasions to consider the power of Administrative Tribunals or other Quasi Judicial Bodies, exercising functions, as are conferred by the relevant Acts and Rules. Under Section 69 of the Act, a dispute could be raised. Rules 67 of the Rules is dealing with the procedure as to who shall hear. Sub Rule 3 of Rule 67 of the Rules state that 'non-monetary disputes are to be filed before the Co-operative Arbitration Court and monetary disputes are to be filed before the Registrar'. The latter makes over the same, depending upon the administrative functions, to the Joint Registrar, Deputy Registrar or the Assistant Registrar, as the case may be. In the instant case, the disputes raised by the writ petitioner were referred to the first respondent, Assistant Registrar, who passed Exts.P5 and P6 awards.

5. The question now raised before me is that when a clerical error crept in, while passing an award, or while endorsing the award, by the Assistant Registrar, whether the party under dispute has

to approach the appellate authority, or any other forum, for getting the said error corrected, or the authority who passed the award could itself correct the same using his inherent powers.

6. The High Court of Kerala had the occasion to consider the use of the inherent power by an Administrative Tribunal, in **Deputy Registrar v. Sarojini** *(1981 (2) KLT 29)*; **Cheru Ouseph v. Kunhi Fathuma** *(1981 KLT 499)*; **Thankam R.Pillai v. Arbitrator** *(1996(1) KLT 225)* & **Paul v. Asst. Registra**r *(1998 (2) KLT 449).* The consistent legal view that had been held and accepted by the Single as well as the Division Benches of this Court are that the Quasi Judicial Agencies dispensing justice are also having inherent jurisdiction to resort to restoration of the matters dismissed for default, to carry out such corrections which would not change the characteristics of the award passed or to implement its own judgments, awards or orders, so as to give justice to the parties to the proceedings.

7. When the Law is enacted by the Law making authority, the intention of the Legislature or Parliament enacting the same, is to regulate the particular activity or activities of a particular

person or a group of persons, so that they are controlled effectively, and the execution of the provisions contained therein, is used for the benefit of the people. The Kerala Co-operative Societies Act is a benevolent legislation. The persons who are members of a particular Society or group of Societies, who formed the same, in a Taluk, District or State level, are directed to function, in a particular manner, and in case of any violation in their actions, the affected person(s) come up raising disputes, as stated under Section 69 of the Act.

8. When an affected person approaches the authority to correct an error or set aside an ex-parte order passed against him, and if the Arbitrator or the Tribunal expresses his or its legal inability to consider the same, may be forcing that person to approach the higher authorities, which would initiate another set of litigations, consuming considerable time, energy and monetary loss for the person (s), who are affected by such orders.

9. The Courts, Tribunals or other establishments, dispensing justice, are conferred with the inherent powers, so that no failure is caused in rendering justice to the needy, at the appropriate

time. If there is any lack of provision, the Presiding Officer of a Court or the Tribunal has to ensure that the statute is interpreted in its true spirit, so that the people could get the benefit.

10. In the instant case, I have perused the averments contained in Exts.P1 and P2, the suits filed before the Registrar. It contains the description of the property as 25 cents and the building therein. But in Exts.P5 and P6 awards, it is stated as only 10 cents and the trees therein. Obviously, this is a clerical error. The direction of the first respondent advising the writ petitioner to approach the appellate authority with a revision petition is not conducive to the spirit of the Act and the Rules. I may say with all the emphasis at my command that it is not correct. This small clerical error should not be allowed to force the petitioner or any one else to approach the authorities again for its correction.

11. Therefore, I am of the considered opinion that, using the inherent power, the first respondent shall, on receipt of this judgment, correct the awards, Exts.P5 and P6, putting the exact extent

of the property, as contained in Exts.P1 and P2, giving description as shown therein. This shall be done within two weeks from the date of production of a copy of this judgment.

Writ petition is disposed of as above.

J.M. JAMES,
JUDGE

nj.